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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/788,162	02/15/2001	Robert Anthony Luciano JR.	GSS-00-001-CIP.1	4032
	7590	10/04/2004	EXAMINER	
Russ Marsden c/o Sierra Design Group 300 Sierra Manor Drive Reno, NV 89511			HOTALING, JOHN M	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,162

Applicant(s)

LUCIANO ET AL.

Examiner

John M Hotaling II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 134-139, 141, 142, 145, 147 and 150-152 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 134-139, 141, 142, 145, 147 and 150-152 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 134-139, 141, 142, 145, 147, and 151-152 are rejected under 35 U.S.C.

102(e) as being clearly anticipated by US Patent No. 6,165,071 to Weiss. Weiss teaches a game system that allows a player to play a game over many sessions (Abstract). A player is given the ability to discontinue game play at this own whim as a function of time (1:59-67) and additionally, through the use of memory cards, hold game state data with player information (2:25-37). This information can be encrypted and stored on the memory cards for later use when restoring a game (2:25-37). Weiss also discloses that a memory card can hold data regarding use in specific machines, such as a machine exclusively calibrated for baseball (4:22-58, and column 5) using a memory card with the data only for use in a baseball type machine, which meets the limitation of a gaming device restriction. With respect to the use of a randomly generated event please see figure 2, column 3:1-10, 60-65, and column 6:46-49, This is a simulative type game with multiple themes usable in a casino based on a random event.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 150 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss.

In regard to claim 150, Weiss teaches the limitations as discussed above, but does not expressly teach indicating null or any state for an element that is lacking any data.

However, Weiss provides for variable states of identified elements in a game where these states allow for constant analysis to determine award benefits to players for their achievements (2:15-19 and 5:30-58). The constant analysis would not include elements that have not produced tangible data for analysis, such as post-season performance if the analysis is performed during a regular season. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide some data state indicating the lack of data for that element so that improper data is not used.

Furthermore, it is notoriously well known in the art of data management to use *NULL* identifiers to indicate lack of data in a data field to speed data processing.

Response to Arguments

3. Applicant's arguments filed 8/31/04 have been fully considered but they are not persuasive. Applicant has amended claims to include the limitations of data comprising certain features and recited the feature of a game based upon a random event.

Re a ***game based upon a random event***: In response to applicant's arguments, the recitation "configured to enable play of a game whose outcome is based at least partially on a random event" has been and was previously considered by the examiner as explained in the previous response to arguments. The applicant has removed the cited passage from the preamble therefore, the examiner points out that this game is a simulative type game where a player wagers and is awarded based on a random event a prize as disclosed above.

With respect to the applicants added subject matter to the claim further limiting a gaming device restriction it is noted that in the cited passages the game is related to a theme and only game machines with the theme are able to accept and play with a "baseball tracking card". Additionally, this claim limitation is part of a Markush grouping and is only considered in the alternative and other limitations of the grouping have been disclosed as noted above.

With respect to the applicant's argument relative to the examiner may only apply art relative to the normal and well known reel devices and poker machines the examiner would point out that the invention to Weiss is a gaming device in a casino that uses a random event to award credits based on a thematic game. See 4:65-5. Additionally the applicant admits in his own specification that the game can be played on a number of different devices with varying game play. See page 13 for a live table game, page 14 for a game configured for play by a player, bottom of page 61-62 which states that "... it will be seen that this invention provides a system and method for maintaining player's award credits, gaming states not associated directly with award credits, and provides for

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Newprom awards in a gaming environment. A player may restore award credits and/or other game state from previously played games when the previously played games are the same game device or from a similarly constructed game. The invention also provides for Newprom awards, allowing credits to be awarded for non-gaming events and based on non-gaming criteria. " The examiner takes this as an admission that the system can be practiced on any game machine and thus the applicant's representatives arguments are moot.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is 703 305 0780. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (703) 308 2064. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOHN M. HOTALING, II
PRIMARY EXAMINER

September 29, 2004

